

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

IN RE:)
)
AMENDMENTS TO THE LOCAL RULES OF) Misc. No. 1993-21
CRIMINAL PROCEDURE)
)
_____)

ORDER

The Court has previously proposed amendments to the Local Rules of Criminal Procedure. Pursuant to 28 U.S.C. § 2071(b), the Court issued a Notice Inviting Comment dated September 24, 2008, which solicited comments on the proposed amendments. Some of the suggestions and comments received by the Court are incorporated into the amendments. Accordingly, it is hereby

ORDERED that the amendments to the Local Rules of Criminal Procedure, including some of the suggestions of the public and the bar, shall become effective on October 10, 2008. The amendments, which are attached hereto, constitute the entire body of Local Rules of Criminal Procedure, and supersede all previous criminal rules promulgated by this Court or any Judge of this Court.

S\ _____
CURTIS V. GÓMEZ
Chief Judge

Rule 1.1 Scope of Rules

(a) TITLE AND CITATION. These Rules shall be known as the Local Rules of Criminal Procedure of the District Court of the Virgin Islands of the United States. They shall be cited as "LRCr."

(b) SCOPE OF RULES. These Rules apply in all proceedings in criminal actions.

(c) EFFECTIVE DATE. These Rules become effective on October 10, 2008.

(d) RELATIONSHIP TO PRIOR RULES. ACTIONS PENDING ON EFFECTIVE DATE. These Rules supersede all previous criminal rules promulgated by this Court or any Judge of this Court. They govern all applicable proceedings brought in this Court after they take effect. They also apply to all proceedings pending at the time they take effect, except to the extent that in the opinion of the Court the application thereof would not be feasible or would work injustice, in which event the former rules govern.

(e) RULE OF CONSTRUCTION AND DEFINITIONS. Title 1 U.S.C. §§ 1-5, as far as applicable, govern the construction of these Rules.

Rule 1.2 Relationship to Local Rules of Civil Procedure

In cases of general procedure not covered by these Rules, the Local Rules of Civil Procedure shall apply.

Rule 16.1 Disclosure of Personnel Records of Law Enforcement Agents

(a) Upon request of a defendant who articulates a reasonable basis for the belief that a particular law enforcement officer's personnel and/or internal affairs file may contain discoverable information:

(1) Local Personnel Records.

The United States Attorney for the District of the Virgin Islands must request that the Attorney General of the Virgin Islands search for and review all personnel and internal affairs files of such local, non-federal, law enforcement personnel, past or

present, and report the results of such search and review to the United States Attorney , or directly to the District Court as provided by this rule. The report must contain the substance of all disciplinary reports, citizen complaints, departmental and/or agency complaints, including any disposition; medical and/or psychological information which could reasonably bear on the officer's ability to observe, perceive or relate events, or which could affect such officer's credibility; positive drug and/or alcohol testing results; criminal charges whether prosecuted or not; the substance of all internal affairs investigative files including all allegations and dispositions; all misconduct complaints and reports; any other acts and information, whether substantiated or not, which could reasonably bear on the officer's credibility or character for truthfulness. If the Attorney General or the United States Attorney believes that portions of the information contained in the report should not be disclosed, either one or both may request a protective order under Federal Rule of Criminal Procedure 16(d)(1).

(2) Federal Personnel Records.

The United States Attorney must request that the in house counsel of the federal agency search for and review all personnel and internal affairs files of such federal law enforcement personnel, past or present, and report the results of such search and review to the United States Attorney, or directly to the District Court as provided by this rule. The report must contain the substance of all disciplinary reports, citizen complaints, departmental and/or agency complaints, including any disposition; medical and/or psychological information which could reasonably bear on the employee's ability to observe, perceive or relate events, or which could affect such person's credibility; positive drug and/or alcohol testing results; criminal charges whether prosecuted or not; the substance of all internal affairs investigative files including all allegations and dispositions; all misconduct complaints and reports; any other acts and information, whether substantiated or not, which could reasonably bear on the person's credibility or character for truthfulness. If the federal agency or the United States Attorney believes that portions of the information contained in the report should not be disclosed, either one or both may request a protective

order under Federal Rule of Criminal Procedure
16(d)(1).

(b) The United States Attorney must disclose information from a report submitted under subsection (a) that is material to the preparation of the defendant's defense, subject to any protective order issued by the Court.

(c) If a search and review of records conducted under subsection (a) reveals nothing to be disclosed, the United States Attorney must file a statement including the following information: that a search was conducted, the extent of the search, the existence of any protective order, and that there is no information not subject to a protective order that is material to the preparation of the defense.

Rule 16.2 Joint Discovery Statement

The attorneys for the government and the defendant shall collaborate and prepare a written Joint Discovery Statement to be signed by counsel from each side and filed with the Court no later than five days prior to the commencement of every trial. The Joint Discovery Statement shall generally describe all discovery material exchanged and shall set forth all stipulations. No stipulation shall be used against a defendant unless the stipulation is in writing and signed by both the defendant and the defendant's attorney.

Rule 28.1 Interpreters

The prosecuting attorney or defense counsel must determine if an interpreter is needed for a defendant's court appearance. Except in preliminary proceedings, all requests for interpreting services must be made to the Court at least six days before the interpreter's services are required.

Rule 43.1 Presence of the Defendant

Counsel representing a person accused of a criminal offense in the District Court has the responsibility of notifying the defendant to appear before the Court, unless the defendant is in custody. The United States Attorney shall arrange for a defendant's presence in court when the defendant is in custody.

Rule 46.1 Motion for Modification of Conditions

If a defendant's attorney or the United States Attorney moves for any modification of conditions such as reporting to probation, or permission to leave the Virgin Islands, the party making the motion must first confer with the opposing party or give reasons for not so conferring. The motion must indicate whether the opposing party has any objection.

Rule 49.1 Service to Attorneys Through Clerk's Office Boxes

Attorneys in active practice in the District Court have been assigned boxes in the Office of the Clerk of Court for service by the Court of orders and other communications that are not served electronically. It is the duty of counsel to check their boxes sufficiently often to ensure that they receive timely notice of such orders and other notices.

Rule 53.1 Cameras and Recording Devices

The possession or use of cameras or recording devices is prohibited in the United States Court House or anywhere that a judicial officer is holding a court proceeding. The use of mobile telephones during a court proceeding is prohibited.

Rule 58.1 Collateral Forfeiture

(a) In General. With respect to certain offenses specified in an order of the Court and available on the Court's web-site, the person charged with the offense may post collateral in the amount indicated for the particular offense in lieu of appearance.

(b) Forfeiture and Effect. Upon the failure of the person charged with the offense to appear for trial, the collateral shall be forfeited to the United States. Such forfeiture is tantamount to a finding of guilt.

(c) Forfeiture Not Permitted. Forfeiture is not permitted for violations contributing to an accident causing property damage in excess of one hundred dollars (\$100.00) or personal injury or when, in the opinion of the arresting or citing officer or agency, the offense charged is an aggravated offense.

(d) Arrest in Lieu of Forfeiture. Nothing contained in this Rule shall prohibit a law enforcement officer from arresting a person for the commission of any offense, including those for which

collateral may be posted and forfeited, and requiring the person charged to appear before the Court.

(e) Violation Notices. The content of, and procedures governing, violation notices are set forth in the order of the Court referred to in (a) above.

Rule 60.1 Criminal Justice Act Plan and Forms

The Court's Criminal Justice Act Plan and forms for use in proceedings governed by these Rules are available on the Court's website and in the office of the Clerk of the Court.